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**IN THE  
COURT OF APPEALS OF INDIANA**

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ROBERT DALMASO,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 42A04-0608-CR-468
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE KNOX SUPERIOR COURT  
The Honorable Jim R. Osborne, Judge  
Cause No. 42D02-0510-CM-1458

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**FEBRUARY 7, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**ROBERTSON, Senior Judge**

## STATEMENT OF THE CASE

Defendant-Appellant Robert Dalmaso is appealing his conviction at a bench trial of the Class A misdemeanor of criminal trespass. We affirm.

## ISSUE

Dalmaso states the issue as: “Whether the evidence was sufficient to convict Defendant of criminal trespass where the Defendant entered residence he had permission to enter upon exercise of his own judgment.”

## FACTS

A summary of the facts that are favorable to the judgment show that Dalmaso and Toby and Christina Ewer were good friends and that Dalmaso would come to their house regularly. Dalmaso held no interest in the property and had no key.

Toby left for work one day, and after discovering that he had forgotten something, returned to his house. Toby went into his backyard where he saw Dalmaso running from inside the house and out the backdoor. There were no members of the Ewer family inside the house at that time. Dalmaso was trying to get away, and when Toby confronted him, Dalmaso defecated in his pants.

Dalmaso admitted he was in the house because he had seen the front door open, and he claimed that he went in to see if things were all right.

## DISCUSSION AND DECISION

Dalmaso argues that he had the consent from the property owners to enter the residence upon the exercise of his own judgment and as a result could not have entered the property without their consent

Our standard of review when considering the sufficiency of the evidence is well settled. *Morrison v. State*, 824 N.E.2d 734, 742 (Ind. Ct. App. 2005), *trans. denied*. We will not reweigh the evidence or assess the credibility of the witnesses. *Id.* Rather, we will only consider the evidence most favorable to the judgment, together with all reasonable inferences that can be drawn therefrom. *Id.* We will uphold a conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

Ind. Code § 35-42-2-2, as applicable to this case, provides that a person who not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without that person's consent, commits the Class A misdemeanor of criminal trespass.

In large measure, Dalmaso asks us to reweigh the evidence by accepting testimony relating to his permission to enter the property and rejecting testimony to the contrary. Triers of fact determine not only the facts presented to them and their credibility but any reasonable inferences from facts established either by direct or circumstantial evidence. *Brink v. State*, 837 N.E.2d 192, 197 (Ind. Ct. App. 2005), *trans. denied*. There was evidence from both Toby and Christina Ewers that Dalmaso did not have their consent to enter their residence and that Dalmaso could only enter their home when a family member was there. There was the additional evidence of Dalmaso's flight, an indication of guilt. *See Brown v. State*, 563 N.E.2d 103, 107 (Ind. 1990).

## CONCLUSION

The evidence is sufficient to support Dalmaso's conviction for criminal trespass.

Judgment affirmed.

VAIDIK, J., and MATHIAS, J., concur.